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09/973,067	10/10/2001	William D. Swart	SEDN/12164	5257

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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/973,067	Applicant(s) SWART ET AL.	
	Examiner DOMINIC D. SALTARELLI	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed February 19, 2008 have been fully considered but they are not persuasive.

First, applicant argues that Smith does not specify a coding requirement, and thus the combination does not teach all the claimed limitations (applicant's remarks, page 8).

The example Smith provides, that of specifying a video format, is just one example of the types of information provided from the user used by the information source in determining how to deliver content. The descriptive information provided from the requesting party is inclusive of all the information necessary to deliver content (col. 5 line 65 - col. 6 line 7), not just the particular format desired. Further, the coding and formatting request itself is already taught by Hendricks, as the output equipment needs to know both the coding (video data format) and format (signal format) of the content to deliver (Hendricks, col. 13, lines 34-41), and the modification in view of Smith is to provide this information from the user.

Second, applicant argues that auxiliary service requests are not included in the content and formatting request from the user, and thus does not teach the claimed limitations regarding said auxiliary service requests (applicant's remarks, page 9).

In response, the specification defines auxiliary service requests to be inclusive of targeted advertisements (page 4 line 28 - page 5 line 2), which is determined by the CAP in Hendricks and is included in the coding and formatting commands for the insertion of advertisements. However, as stated, Hendricks fails to disclose that information indicative of such is received from the user. It is the combination of Hendricks with Smith which enables a user to specify all manner of particular settings by sending a profile of requirements. The prior art is replete with sending of user profile information which enables a headend to select advertisements targeted to said user based upon the information sent in the profile, and the combination of Hendricks with Smith provides a similar result.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-10, and 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (5,600,573, listed on the IDS submitted July 23, 2002) [Hendricks] in view of Smith et al. (6,088,732, of record) [Smith].

Regarding claims 1 and 10, Hendricks discloses an apparatus that decodes, formats, and codes content for storage and delivery (fig. 2, operations center 202, col. 21, lines 10-37), comprising:

means for providing two different formats for content storage (the apparatus supports both MPEG and ATM formats, col. 11 line 61 – col. 12 line 3);

means for receiving a coding and formatting request (system controller 312 sends a coding and formatting request for content to output equipment 320, col. 14 line 59 – col. 15 line 46 and col. 24, lines 43-64);

means for analyzing parameters contained in the coding and formatting request (output command and control module 500, col. 14, lines 20-38);

means for decoding, formatting in the two different format for content storage and coding target content (receiver 300 or equally, output equipment 320);

means for configuring the means for decoding formatting, and coding target content delivery (output command and control module 500);

means for routing coded target output content to one or more target addresses (output equipment 320, col. 10, lines 24-38);

means for analyzing auxiliary service requests in the coding and formatting request (the same means identified above which analyze the coding and formatting requests will analyze the auxiliary service requests found in the coding and formatting request, said auxiliary services relating to advertisement insertions determined by the CAP, col. 10, lines 39-67, col. 13, lines 42-65, and col. 17, lines 49-67);

means for configuring auxiliary services processing means to supply the requested auxiliary services (the same configuring means identified above); and

means for outputting the requested auxiliary services, whereby the outputted auxiliary services are combined with the coded target output content (the same routing means identified above).

Hendricks fails to disclose the coding and formatting request originates from a user.

In an analogous art, Smith teaches transmitting upstream, from users, content coding and formatting requests specifying desired content coding and formats, allowing users to specify precisely the manner in which they desire content to be delivered (col. 5 line 41 - col. 6 line 61, specifically the profiles which are sent upstream to an information source when the comparator is located at the information source along with a request for content, said profiles specifying the content coding and formatting desired by a user).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and apparatus of Hendricks for the coding and formatting request to originate from a user, as taught by Smith, for the benefit of granting individual users enhanced control over the coding and formatting of content delivered to their homes.

Regarding claims 3 and 12, Hendricks and Smith disclose the method and apparatus of claims 1 and 10, further comprising means for parsing auxiliary

services and auxiliary service time code data (the apparatus determines both the advertisements to be inserted, the length of the advertisements, and when they should be inserted, Hendricks, col. 17, lines 49-67).

Regarding claims 4 and 13, Hendricks and Smith disclose the method and apparatus of claims 3 and 12, further comprising means for synchronizing the auxiliary service time code data and content time code data (the apparatus creates a schedule of programming that interleaves content and advertisements, Hendricks, col. 17, lines 49-67 and col. 19, lines 9-36).

Regarding claims 5 and 16, Hendricks and Smith disclose the method and apparatus of claims 1 and 10, wherein the auxiliary services comprises advertising (Hendricks, col. 17, lines 49-67).

Regarding claims 6 and 14, Hendricks and Smith disclose the method and apparatus of claims 1 and 10, whereby auxiliary services are combined with requested source content (Hendricks, col. 7, lines 5-25 and col. 9, lines 50-67), further comprising:

means for separating the auxiliary services from the requested source content (the apparatus parses and separates content into individual programs and advertisements for storage, Hendricks, col. 9, lines 65-67, "The storage

Art Unit: 2623

device 308 stores some or all of the received programs and advertisements

212.”, see also Hendricks, col. 11, lines 1-17 and col. 11 line 47 – col. 12 line 17);

means for processing the separated auxiliary service (advertisements are processed separately, Hendricks, col. 17, lines 49-67); and

means for combining selected separated auxiliary services with the coded target output content (Hendricks, col. 10, lines 52-55 and col. 17, lines 49-67).

Regarding claims 7 and 15, Hendricks and Smith disclose the method and apparatus of claims 1 and 10, wherein the requested auxiliary services are separate from the requested content (advertisements are individually selectable and stored independently of other content in the storage device 308, Hendricks, col. 17, lines 49-67), further comprising:

means for formatting and coding the requested auxiliary services (Hendricks, col. 12 line 59 – col. 13 line 6); and

means for combining the requested formatted and coded auxiliary services and the coded target output content (Hendricks, col. 14, lines 15-38).

Regarding claims 8 and 17, Hendricks and Smith disclose the method and apparatus of claims 1 and 10, wherein upon receiving a formatting and coding request, formatting and coding means are identified (output means comprises a large number of duplicated components, Hendricks, col. 15, lines 31-46, wherein output equipment control means must send configuration information to the

output equipment for accomplishing multiple tasks concurrently, col. 13, lines 18-33), but fails to disclose said identification is performed by a polling means.

It is notoriously well known in the art to poll electronic device to receive status information.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method and apparatus disclosed by Hendricks and Smith to identify formatting and coding means via polling means.

Regarding claims 9, 18, and, 19, Hendricks and Smith disclose the method and apparatus of claims 1 and 10, further comprising means for reading target content routing address information and means for routing target content based on the address information (in addition to sending certain programming packages to certain cable headends, Hendricks, col. 10, lines 24-38 and col. 19, lines 9-35, the apparatus also routes specifically requested video on demand programs to subscriber sites, col. 19, lines 36-54).

Regarding claim 20, Hendricks and Smith disclose the apparatus of claim 10, wherein the parameter contained in the coding and formatting request comprises format description (see Hendricks, col. 11, lines 46-60, col. 12, lines 59-65, col. 13, lines 34-41, or col. 14, lines 20-38).

Regarding claim 21, Hendricks and Smith disclose the apparatus of claim 10, but fails to disclose applying forward error correction coding to target output content.

However, Hendricks does disclose a quality control module which performs quality control functions on output content (col. 14, lines 39-58). Forward error correction is notoriously well known in the art to maintain the quality of outgoing digital data.

It would have been obvious at the time to a person of ordinary skill in the art to modify the apparatus disclosed by Hendricks to applying forward error correction coding to target output content, for the benefit of maintaining the quality of outgoing digital content.

Regarding claim 22, Hendricks and Smith disclose the apparatus of claim 10, wherein the target addresses include an aggregator local storage (Hendricks, col. 12, lines 4-17) or a user terminal (for filling a video on demand request, Hendricks, col. 19, lines 36-54).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 2623

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOMINIC D. SALTARELLI whose telephone number is (571)272-7302. The examiner can normally be reached on Monday - Friday 9:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art
Unit 2623

/Dominic D Saltarelli/
Examiner, Art Unit 2623